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HUMAN RIGHTS COMMITTEE

Comments of the Human Rights Committee*

Republic of Bosnia-Herzegovina

A. Introduction

1. Deeply concerned by recent and current events in the territory of the former Yugoslavia affecting human rights protected under the International Covenant on Civil and Political Rights; noting that all the peoples within the territory of the former Yugoslavia are entitled to the guarantees of the Covenant; and acting under article 40, paragraph 1 (b) of the Covenant; the Committee, on 7 October 1992, requested the Government of the Republic of Bosnia-Herzegovina to submit a short report on the following issues in respect of persons and events now coming under its jurisdiction:

(a) measures taken to prevent and combat the policy of "ethnic cleansing" pursued, according to several reports, on the territory of certain parts of the former Yugoslavia, in relation to articles 6 and 12 of the International Covenant on Civil and Political Rights;

(b) measures taken to prevent arbitrary arrests and killings of persons, as well as disappearances, in relation to articles 6 and 9 of the International Covenant on Civil and Political Rights;

(c) measures taken to prevent arbitrary executions, torture and other inhuman treatment in detention camps, in relation to articles 6, 7 and 10 of the International Covenant on Civil and Political Rights;

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* Adopted at the 1205th meeting (forty-sixth session), held on 6 November 1992

(d) measures taken to combat advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence, in relation to article 20 of the International Covenant on Civil and Political Rights.

2. Pursuant to that request, the Government of Bosnia-Herzegovina submitted a background paper dated August 1992 on the violations of human rights that had occurred on the territory of the Republic, which was considered by the Committee at its 1200th meeting, held on 3 November 1992. The Republic of Bosnia-Herzegovina was represented by Professor Muhamed Filipovic, Vice-President of the Academy of Science and Art of the Republic of Bosnia-Herzegovina, Member of the Assembly of the Republic of Bosnia-Herzegovina, Member of the State Delegation of the Republic of Bosnia-Herzegovina at the International Conference on Former Yugoslavia; Dr. Kasim Trnka, Member of the Constitutional Court of the Republic of Bosnia-Herzegovina, Member of the State Delegation of the Republic of Bosnia-Herzegovina at the International Conference on Former Yugoslavia and Mr. Mustafa Bijedic, Minister Counsellor, Chargé d'affaires, Mission of the Republic of Bosnia-Herzegovina to the United Nations Office at Geneva. The document submitted was supplemented orally in detail and in depth in the perspective of the particular areas of concern on which the Committee had requested a report.

3. The Committee notes that by complying with the Committee's request to submit a report and by sending a delegation before it, the Republic of Bosnia-Herzegovina has confirmed its succession to the obligations undertaken under the International Covenant on Civil and Political Rights by the former Socialist Federal Republic of Yugoslavia in respect of the territory forming part of the Republic of Bosnia-Herzegovina.

B. Positive aspects

4. The Committee welcomed the delegation's affirmation that the Republic of Bosnia-Herzegovina considers itself legally responsible for whatever has taken place not only in that part of its territory on which it has factual and effective control but also in other parts of its territory. The Committee has also taken note of the measures taken to combat and prevent violations of human rights, in particular, measures to ensure that the arrest and detention of persons are carried out only by the legal authorities and not by uncontrolled individuals; the demarcation of legal responsibility between the military and civilian police authorities; the replacement of commanders who have been responsible for violations; and the disbanding of groups and units which have been responsible for violations. The Committee has also taken note of the measures taken to protect the person and property of Serbs.

C. Factors and difficulties impeding the application of the Covenant

5. Since Bosnia-Herzegovina became a separate State, a significant part of its territory has remained out of its control and has been subjected to military action entailing massive human rights violations resulting in loss of life, torture, disappearances, summary executions, rapes and general

ill-treatment of persons. The delegation stated that much of this was the result of the action of outside forces and uncontrolled groups and individuals.

D. Principal subjects of concern

6. The Committee expressed its concern at the large number of killings, arbitrary arrests, detentions, the operation of prisons by private persons and the general mistreament of persons.

Recommendations

7. The Committee recommends that the Republic of Bosnia-Herzegovina formalize its succession to the Covenant by submitting the appropriate notification to the Secretary-General of the United Nations. The Committee recommends that the measures already taken by the Republic should be further intensified and systematically monitored so as to ensure that "ethnic cleansing" does not take place, whether as a matter of revenge or otherwise; that prisoners are not taken for the purpose of eventual exchange of prisoners; that all places of detention are officially proclaimed; that records of all people detained are kept and made public; and that such places of detention are open to visits by the International Committee of the Red Cross and the families of the people detained. All places of detention that do not comply with these conditions should be immediately dismantled. Administrative arrangements should be made to enable persons to retrace members of their family who have disappeared and prompt investigations should take place to bring all those responsible for violations to trial.